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OFFICE OF PETITIONS

In re Application of	:	
Dort, David Bogart	:	DECISION ON PETITION
Application No. 10/807,898	:	TO MAKE SPECIAL
Filed: March 24, 2004	:	37 CFR 1.102(c)
Attorney Docket No. VRBIA.P10A	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed July 27, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure is not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have

their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02(XI). The specification and claims as originally filed indicate the invention is directed towards an improved biometric security system. The petition states, "The claims of the above-referenced application are directed towards an invention that is directly aimed at combating terrorism, mainly in the form of an undetectable system that combats coercion of key civilian or military personnel by malevolent actors, mainly during operations to access to secure facilities (or information), during the operation of equipment such as an airliner, or computational or communications equipment." Further, the petition states, "Implementations of the presently claimed invention that materially contribute in the anti-terrorism subject matter include two specific subject matter areas: A) entry and access to secure facilities and information, and B) retrofitting existing biometric access systems." The specification and claims as originally filed provide no indication of an intention to counter terrorism with the security system. The disclosure failed to indicate countering terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Further correspondence with respect to this matter should be addressed as follows:


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Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3692 for action in its regular turn.


David Bucci
Petitions Examiner
Office of Petitions